IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.331 OF 2006

Ramdas Dhondiba Pokharkar & Ors. ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri A.S.Patki i/by U.B.Nighot for the Applicants.
Shri A.S.Shitole, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 22, 2006.

P.C.:

1. Rule. The learned A.P.P. waives service.

This Application is filed by the original accused for challenging order dated 04th August, 2006 passed by the learned Adhoc Additional Sessions Judge, Pune on the Application at Exhibit 39. The Application at Exhibit 39 was filed by the Applicants praying for recalling the Investigation Officer for cross-examination. The learned Judge rejected the said Application by observing that on 19th July, 2006 the Investigation Officer was recalled on the basis of Application made by the Applicants and when the officer remained present on 31st July, 2006, the Advocate for the Applicants did not turn up for cross-examination. As the Applicants failed to avail of the opportunity granted earlier, the impugned order

was passed rejecting the Application.

2. The learned Advocate appearing for the Applicants submits that one more opportunity be granted to the Applicants. He states that on the day fixed by this court, the Advocate for the Applicants will attend the court and will cross-examine the Investigation Officer. The learned A.P.P. opposed the Application by pointing out that on earlier occasion the Advocate for the Applicants did not remain present though the Investigation Officer was recalled.

3. Considering the facts and circumstances of the case, I am of the view that one more opportunity deserves to be granted to the Applicants. However, the Applicants will have to be put to the terms for ensuring that they cross-examine the Investigation Officer on the date fixed by this court.

4. Hence, Revision Application is disposed of by passing following order:

(i) The impugned Judgment and Order dated 04th

August, 2006 is quashed and set aside.

(ii) The Application made by the Applicants at Exhibit 39 is allowed. The Investigation Officer will remain present before the learned Trial Judge on Monday 11th September, 2006 at 11.00 a.m.

(iii) It will be open for the Advocate for the Applicants to cross-examine the Investigation Officer by remaining present in the court at 11.00 a.m. on that day.

(iv) It is clarified that no adjournment will be granted to the Applicants by the learned Trial Judge and in the event the Applicants fail to cross-examine the Investigation Officer on that day, the evidence of the Investigation Officer will be treated as closed.

(v) Rule is made partly absolute in above term with no orders as to costs.

(vi) Parties and the concerned court to act upon an authenticated copy of this order.

JUDGE